

Amendment No. 1 to HB2321

Hargrove
Signature of Sponsor

AMEND Senate Bill No. 2300

House Bill No. 2321*

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

by deleting all sections of the printed bill and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 71, Chapter 5, Part 1, is amended by adding the following as a new section:

Section ____.

(a) To the extent that funds are specifically appropriated by the General Appropriations Act including, but not limited to, any such funds that may be available from the bureau of TennCare's reserve funds, the department of finance and administration, in coordination with the department of health, is authorized to facilitate the expansion and augmentation of a health care safety net in the state of Tennessee. The health care safety net provides medical assistance to individuals in need of medical care who are uninsured and who lack financial resources to secure medical care. It is the legislative intent that priority should be given to efforts pursuant to this section that benefit the greatest number of such individuals. Such efforts may include, but not be limited to:

(1) Improvement and expansion of the provision of medical assistance, both medical services and pharmacy, in the county health departments, with specific emphasis placed in providing assistance in those counties with the largest number of uninsured individuals;

(2) Support for community-based health care facilities and practices, including not-for-profit clinics, faith-based facilities, and federally qualified health centers, for the provision of health care services to the uninsured;

(3) Incentive-based measures to encourage and promote physician involvement and treatment of the uninsured population, including specific steps

taken to assist in providing for continuity of care for such individuals as well as targeted efforts at comprehensive disease management;

(4) Creation and implementation of a twenty-four (24) hour, seven (7) day a week health care safety net hotline designed to assist and direct individuals in need of medical care and services to available resources in their areas;

(5) Creation of a donated care referral system that can be easily accessed by individuals in need of medical care; and

(6) Collaborative work with agencies and entities across the state to encourage citizens to volunteer their time, effort, and resources in creative efforts to assist in the overall care and well-being of uninsured individuals in this state.

(b) Nothing established or supported pursuant to the provisions of this section shall in any way be construed or determined to be an entitlement by any individual or entity to any medical assistance, medical services, or any pharmacy services or, if such assistance or services are provided, to any continuing assistance or services by the State or by any other entity or person.

SECTION 2. Tennessee Code Annotated, Title 56, is amended by adding the following as a new, appropriately designated chapter:

56-__-_____.

(1) "Commissioner" means the commissioner of the department of commerce and insurance;

(2) "Department" means the department of commerce and insurance;

(3) "Member" means any person who pays fees, dues, charges or other consideration for the right to receive the purported benefits of a prescription drug discount plan.

(4) "Operator" means any person that engages as principle in the business of offering, selling, marketing, advertising or otherwise distributing a prescription drug discount plan within the state;

(5) "Person" means an individual, a corporation, a partnership, an association, a joint venture, a joint stock company, a trust, an unincorporated organization, limited liability company, any similar entity or any combination of the foregoing;

(6) "Prescription drug" has the same meaning as such term is defined in Tennessee Code Annotated, Section 63-10-204; and

(7) "Prescription drug discount plan" means any card or other purchasing mechanism or device, which is not insurance, that purports to offer discounts or access to discounts to any person for the retail purchase of prescription drugs from licensed pharmacies.

56__-_____.

(a) The department of health is hereby authorized to develop and implement a prescription drug discount plan to be known as "Volunteer Rx." The purpose of "Volunteer Rx" is to assist in providing, when possible, cost savings on medications for uninsured Tennesseans or for insured Tennesseans whose insurance does not provide for drug prescription coverage on or after January 1, 2005.

(b) Nothing in the creation of such a drug-discount program pursuant to this section shall be construed as creating any entitlement by any individuals or entities to any services or medications.

56__-_____.

(a) An operator of a prescription drug discount plan must obtain a valid certificate of registration from the commissioner. Such certificate shall be valid for one year from the date of issuance. In order to receive a valid certificate of registration, the operator shall file an application on a form adopted by the commissioner, and provide or demonstrate to the commissioner each of the following:

(1) The name and principle place of business of the operator;

(2) A minimum net worth of one hundred fifty-thousand dollars or the posting of a bond in an amount deemed sufficient by the Commissioner;

(3) A list of drugs and drug classifications that make up the drug discount plan; and

(4) The name and address of the agent in this State for service of process.

(b) Notwithstanding any provision of law to the contrary, it shall be unlawful and a violation of this part for any person to sell, market, promote, advertise or otherwise distribute a prescription drug discount plan in Tennessee or to Tennessee residents without first complying with the provisions of this part.

56__-_____.

(a) Each prescription drug discount card or any materials distributed on behalf of any prescription drug discount plan covered under the provisions of this part shall expressly provide in bold and prominent type (in letters at least 18 point type print) that the card or plan does not constitute health insurance. The card or distributed materials must also contain a toll-free telephone number for customer service, and provide the operator's corporate name and principle place of business.

(b) Prior to becoming a member, the operator must provide each prospective member with a complete description of any and all fees that a member of the plan could be assessed, including any up front fees or membership fees associated with the plan. The description of the fees must also include all potential costs of obtaining a prescription, including but not limited to any mailing costs associated with obtaining the prescription and other dispensing fees.

(c) An operator must provide each member with:

(1) A network directory of participating pharmacies, that shall be updated annually;

(2) A list of the prescription drugs covered by the card or plan, that shall be updated annually; and

(3) A toll-free phone number for customer service.

56__-_____.

(a) Each member shall have the right to cancel membership in a plan within thirty days of joining the plan and shall have the right to have any and all membership fees paid during that initial membership refunded.

(b) After the initial thirty day membership period, a member shall have the right to cancel membership in accordance with the policies established by the operator. Information concerning the cancellation policy of the operator must be provided to the member at the time of the initial membership and cannot be changed unless thirty-day written notice is provided to the member.

56-__-_____. Each operator shall establish a complaint system approved by the commissioner.

56-__-_____.

(a) For purposes of determining compliance with this chapter, the commissioner may examine or investigate the business and affairs of any operator or any person affiliated with the operator. Pursuant to this chapter, the commissioner may:

(1) Order any operator to produce any records, books, files, advertising and solicitation materials or other information; and

(2) Take statements under oath.

(b) The operator that is the subject of the examination or investigation shall pay the expenses incurred in conducting the examination or investigation.

56-__-_____. All operators shall be subject to the proceedings authorized by Title 56, Chapter 9, and for such purposes shall be considered to be an "insurer" as defined in Tennessee Code Annotated, Section 56-9-103.

56-__-_____. Each operator shall file with the commissioner within three (3) months after the end of its fiscal year, an annual report. Such annual report shall include:

(1) Audited financial statements prepared in accordance with generally accepted accounting principles certified by an independent certified public accountant;

(2) A list of the names and addresses of all persons responsible for the conduct of the operator's affairs;

(3) The number of plan members; and

(4) Any other information relating to the performance of the operator that may be required by the commissioner.

56-__-_____.

(a) Any violation of the provisions of this part shall be construed to constitute an unfair or deceptive act or practice affecting the conduct of any trade or commerce and shall be subject to investigation, request for information, penalties, and remedies as provided by the Tennessee Consumer Protection Act, Title 47, Chapter 18.

(b) In addition to the provisions of subsection (a), after notice and hearing, the commissioner may suspend or revoke an operator's certificate of registration, and levy an administrative penalty in an amount not less than ten thousand dollars (\$10,000) for each violation of any of the provisions of this chapter.

SECTION 3. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 4. This act shall take effect upon becoming a law, the public welfare requiring it.